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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/833,099      | 04/11/2001  | Gregory J. Speicher  | 935-012             | 1374             |

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EXAMINER

PIZARRO, RICARDO M

ART UNIT PAPER NUMBER

2662

DATE MAILED: 10/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |   |  |
|------------------------------|--------------------------------------|---|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>09/833,099 | <b>Applicant(s)</b><br>SPEICHER, GREGORY J. |  |
|                              | <b>Examiner</b><br>Ricardo Pizarro   | <b>Art Unit</b><br>2661                     |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1)  Responsive to communication(s) filed on 11 April 2001.
- 2a)  This action is **FINAL**.
- 2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4)  Claim(s) 3-62 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 3-62 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on 11 April 2001 is/are: a)  accepted or b)  objected to by the Examiner.
  - Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
  - Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All    b)  Some \*    c)  None of:
    - 1.  Certified copies of the priority documents have been received.
    - 2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    - 3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1)  Notice of References Cited (PTO-892)
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5)  Notice of Informal Patent Application (PTO-152)
- 6)  Other: \_\_\_\_\_

## DETAILED ACTION

### *Specification*

1. The disclosure is objected to because it contains an embedded hyperlink and/or other form of browser-executable code. Applicant is required to delete the embedded hyperlink and/or other form of browser-executable code ( I.e. page 20 line 5). See MPEP § 608.01.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 3-4 , 6, 9, 11-12, 14, 17, 19-20 , 22, 25,27, 28, 30 34-35, 37, 41-42, 44 , 48-49 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent No. 6,272, 467 ( Durand) in view of US patent No.5,848,396 (Gerace)

Regarding claims 3 , 11 19, 23, 34 , 41 and 48 Durand discloses a method for a computer based advertising system, said method comprising the steps of: a first user taking a first test via a computer network where said first test includes having different options and expressing preferences based on those options (the system prompts a user to select options corresponding to the user's personal traits and the traits of the person he/she wants to meet, col 6 lines 29-33) storing said first user's preferences (@ preferences profile from the user is stored in a memory 18 in Fig. 2, col 6 lines 48-52);

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a second user taking a second test via a telecommunication network where said second test includes having different options and expressing preferences based on said options; storing said second user's preferences ( the same to the first user applies since the system includes a plurality of users taking preferences tests); comparing said first user's preferences with said second user's preferences ( the index of desirability calculated by the matching program 3 is then compared against the matching threshold ( col 12 lines 49-51);

and matching said first user with said second user according to said comparing ( and a determination is made whether a potential match meets the basic level of compatibility to be matched with the user, col 12 lines 52-53).

Durand does not specifically disclose visual images being part of a preferences test , and the Internet being the network of choice, as in claims 3, 11, 19, and 48.; audio recordings being part of a preferences test and the Internet being the network of choice, as in claims 27,34 and 41

However, Gerace discloses a Method and apparatus for determining behavioral profile of a computer user comprising **creating a psychographic profile of the user based on the user preferences selected by that user, the users's preferences being recorded by the program** ( col 2 lines 6-9 and 16-18, col 7 lines 50 and 53). **Gerace discloses both audio and video capabilities for a preferences monitoring** ( depending on the capabilities of the computer both audio /video choices can be provided , col 6 lines 13-20. See also Fig. 3B wherein music is one of the preferences

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to be monitored) **being the Internet the network of choice** ( col 4 line 51), as in claims 3, 11, 19, 27, 34 , 41 and 48 .

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the Durand system by adding to it the capability of collecting and storing psychographic profiles of users based on selections of images and audio that they view and listen to, in order to enhance user profile description.

The motivation to do so is to increase the chances of obtaining potential matches who are more compatible.

Regarding claims 4, 12, 20, 28 and 49 wherein said method further comprises the step of: said system notifying said first user of said matching ( col 9 lines 35-39).

Regarding claims 6 , 14, 22, 30, and 51 ,Durand discloses wherein said notifying is performed via telephone ( matches can be retrieved via telephone by the user, col 18 lines 60-61 and 65) .

Regarding claims 9, 17 and 25 Durand discloses, wherein said visual images include a video display with choices ( col 19 lines 1-2).

Regarding claim 35 wherein said method further comprises the step of notifying said first user of said matching ( col 9 lines 35-39).

Regarding claim 37,Durand discloses wherein said notifying is performed via telephone ( matches can be retrieved via telephone by the user, col 18 lines 60-61 and 65) .

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Regarding claim 42 Durand discloses wherein said method further comprises the step of: said system notifying said first user of said matching ( col 9 lines 35-39).

Regarding claim 44 ,Durand discloses wherein said notifying is performed via telephone ( matches can be retrieved via telephone by the user, col 18 lines 60-61 and 65) .

4. Claims 5 ,13, 21, 29, 36, 53, 50 , are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent No. 6,272, 467 ( Durand) in view of US patent No. US patent no. 5,848,396 ( Gerace) and in further view of US patent no. 5,950,200 ( Sudai)

Durand and Gerace do not specifically disclose the notifying being via email, as in claims 5 ,13, 21, 29, 36, 53, and 50

However Sudai discloses a Method and apparatus for detection of reciprocal interest and subsequent notification, comprising notifying users via electronic mail ( col 6 line 67) , as in claims 5 ,13, 21, 29, 36, 53, and 50.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Duran and Gerace by notifying users via email in order to speed up the notification process.

The motivation to do so is to have a written confirmation of the notification to the user.

5. Claims 7-8, 15-16, 23-24, 31-32, 52-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent No. 6,272, 467 ( Durand) in view of US patent No. US patent no. 5,848,396 ( Gerace).

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Durand and Gerace do not specifically disclose wherein said method further comprises the step of said first user contacting said second user via electronic mail. as in claims 7,15,23,31, and 52; wherein said method further comprises the step of: said first user contacting said second user via telephone, as in claims 8, 16, 24, 32, and 53.

However it would have been obvious to one of regular skill in the art to modify Duran and Gerace by providing different means to the user to contact themselves such as via e-mail, telephone, fax, text messages, visual displays , postal mail and any media available in order to facilitate the user to contact his/her possible matches.

The motivation to do is to offer an increased number of contact options to the user .

6. Claims 38-39, 45-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent No. 6,272, 467 ( Durand) in view of US patent No. 5,848,396 ( Gerace)

Durand and Gerace do not specifically disclose wherein said method further comprises the step of said first user contacting said second user via electronic mail. as in claims 38 and 45; wherein said method further comprises the step of: said first user contacting said second user via telephone, as in claims 39 and 46.

However it would have been obvious to one of regular skill in the art to modify Durand and Gerace by providing different means to the user to contact themselves such as via e-mail, telephone, fax, text messages, visual displays , postal mail and any media available in order to facilitate the user to contact his/her possible matches.

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The motivation to do is to offer an increased number of contact options to the user .

7. Claims 10, 18, 26, 33, 40, and 54 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent No. 6,272, 467 ( Durand) in view of US patent No. 5,848,396 ( Gerace) and in further view of US patent No.5,835,087 ( Herz)

Durand and Gerace do not specifically disclose wherein said matching occurs with a partial match of said first and second user's preferences., as in claims 10, 18, 26, 33, 40, and 54

However Herz discloses a System for generation of profiles , comprising matching between users occurs with a partial match of said first and second user's preferences (system is fault tolerant and also allows partial matching of users, col 71 lines 47-48).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Durand and Gerace by having partial matching between user's to have an expanded matching range between users.

The motivation to do so is to match user in system even if not all resources or preferences are available at the time of the matching.

8. Claim 47 is are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent No. 6,272, 467 ( Durand) in view of US patent No. 5,848,396 ( Gerace) and in further view of US patent No.5,835,087 ( Herz)



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Durand and Gerace do not specifically disclose wherein said matching occurs with a partial match of said first and second user's preferences., as in claims 10, 18, 26, 33, 40, and 54

However Herz discloses a System for generation of profiles , comprising matching between users occurs with a partial match of said first and second user's preferences (system is fault tolerant and also allows partial matching of users, col 71 lines 47-48).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Durand and Gerace by having partial matching between user's to have an expanded matching range between users.

The motivation to do so is to match user in system even if not all resources or preferences are available at the time of the matching.

9. Claims 55-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over US patent No. 6,272, 467 ( Durand) in view of US patent No.6,233,318 ( Picard)

Regarding claims 55, Durand discloses a method for a computer based advertising system, said method comprising the steps of: a first user taking a first test via a computer network where said first test includes having different options and expressing preferences based on those options; (, user is prompted to select ho/ her preferences corresponding to the user's personal preferences, col 6 lines 29-33)

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storing said first user's preferences (preferences are stored in memory 18 in Fig. 3, col 6 lines 46-50)

a second user taking a second test via the Internet where said second test includes having different options and expressing preferences based on said options; storing said second user's preferences ( the same to the first user applies since the system includes a plurality of users taking preferences tests); comparing said first user's preferences with said second user's preferences ( the index of desirability calculated by the matching program 3 is then compared against the matching threshold col 12 lines 49-51);

and matching said first user with said second user according to said comparing ( and a determination is made whether a potential match meets the basic level of compatibility to be matched with the user, col 12 lines 52-53).

Durand does not specifically disclose the network being the Internet and creating an voice mailbox where a second user can leave an audio message, as in claim 55.

However Picard discloses Multimedia mailbox and notification system using the Internet network among two or more subscribers ( col 14 line 58), creating a voice mailbox wherein an audio message can be retrieved by a user( col 16 lines 8-12 and 22-24), as in claim 55.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Durand by providing the voice mailbox as disclosed by Picard to give more access options to the user,

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The motivation to do so is to obtain a system that makes different types of electronic communications to be available to the user.

Regarding claim 56, Durand discloses wherein said method further comprises the step of: said system notifying said first user of said matching ( col 9 lines 35-39).

Regarding claim 57, notifying can take place via the Internet ( via e-mail, col 16 lines 5-8)

Regarding claim 58, said notifying is via email ( col 16 lines 5-8)

Regarding claim 59 ,Durand discloses wherein said notifying is performed via telephone ( matches can be retrieved via telephone by the user, col 18 lines 60-61 and 65) .

Regarding claim 60 , creating the voice mailbox via the Internet ( Internet created mailbox, col 15 line 65) .

Regarding claim 61, retrieving the audio message from the mailbox via the Internet ( col 16 lines 8-12 and 22-24).

Regarding claim 62, a user can communicate with another user via e-mail ( col 16 lines 5-8)

### ***Conclusion***

**10. Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

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(571) 273-8300

(for formal communications intended for entry, for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to 220 South 20<sup>th</sup> Street, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Va 22202 (Customer Window).

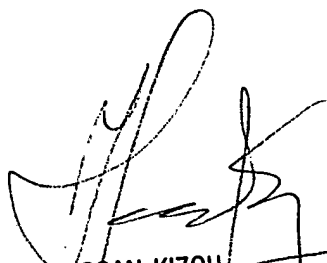
Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Ricardo Pizarro** whose telephone number is (571) 272-3077. The examiner can normally be reached on Monday-Friday from 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Hassan Kizou** can be reached on (571) 272-3088

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

October 16, 2005

Ricardo Pizarro



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